

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 92-139-8]

#### Pine Shoot Beetle

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the pine shoot beetle regulations by adding Adams and Jay Counties, IN, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the pine shoot beetle, a highly destructive pest of pine trees, into noninfested areas of the United States.

**DATES:** Interim rule effective December 29, 1994. Consideration will be given only to comments received on or before March 10, 1995.

**ADDRESSES:** Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. Please state that your comments refer to Docket No. 92-139-8. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

**FOR FURTHER INFORMATION CONTACT:** Mr. C. David McNeal, Operations Officer, Plant Protection and Quarantine, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in

Hyattsville, MD, move to Riverdale, MD, during January. Telephone: (301) 436-8247 (Hyattsville); (301) 734-8247 (Riverdale).

#### SUPPLEMENTARY INFORMATION:

##### Background

The pine shoot beetle is a highly destructive pest of pine trees. The pine shoot beetle can cause damage in weak and dying trees, where reproduction and immature stages of pine shoot beetle occur, and in the new growth of healthy trees. The "maturation feeding" of young beetles takes the form of boring up the center of pine shoots (usually of the current year's growth), causing stunted and distorted growth in the host trees. The pine shoot beetle is also a vector of several diseases of pine trees. Adults can fly at least 1 kilometer, and the wood, nursery stock, and Christmas trees they infest are often transported long distances. This pest damages urban trees, and can cause economic losses to the timber, Christmas tree, and nursery industries.

The regulations in 7 CFR 301.50 (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the pine shoot beetle into noninfested areas of the United States.

Surveys recently conducted by State and Federal inspectors revealed that Adams and Jay Counties, IN, are infested with the pine shoot beetle. The regulations in § 301.50-3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, in which the pine shoot beetle has been found by an inspector, in which the Administrator has reason to believe the pine shoot beetle is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the pine shoot beetle has been found.

In accordance with these criteria, we are designating Adams and Jay Counties, IN, as quarantined areas, and adding them to the list of quarantined areas in § 301.50-3(c).

##### Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation

exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the pine shoot beetle from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

##### Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In Adams County, IN, there are four nurseries and one logging operation; in Jay County, IN, there are four nurseries and two Christmas tree producers. All could probably be classified as small entities by Small Business Administration criteria (for nurseries, annual gross receipts of \$150,000 or less; for loggers, annual gross receipts of \$3.5 million or less; for Christmas tree producers, annual gross receipts of \$0.5 million or less). The logging operation in Adams County harvests only deciduous trees.

This action will restrict the movement of certain pine products from quarantined areas to nonquarantined areas. If inspected and found to be infested with the pine shoot beetle, these pine products can be either diverted for sale within local markets or treated in accordance with § 301.50-10 prior to shipment to a nonquarantined area. Based on information acquired from extension agents, we estimate that, in the newly quarantined counties, most producers of regulated pine products make approximately 90 percent of their sales locally or to buyers within the county or other quarantined areas in Indiana and thus will not be affected by this action. Producers can treat the small amount of regulated pine products

sold interstate with an approved methyl bromide treatment at a reasonable cost (approximately \$1 per tree).

We anticipate, therefore, that this action will not have a significant economic impact on small nurseries, Christmas tree farmers, or other forest product producers in the two newly quarantined counties.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

**Executive Order 12778**

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget

(OMB), and there are no new requirements. The assigned OMB control number is 0579-0088.

**National Environmental Policy Act**

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the treatment of regulated articles, under the conditions specified in this rule, will not present a risk of introducing or disseminating plant pests and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through

Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690-2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

**List of Subjects in 7 CFR Part 301**

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

**PART 301—DOMESTIC QUARANTINE NOTICES**

1. The authority citation for part 301 continues to read as follows:

**Authority:** 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.50-3, paragraph (c), under Indiana, new counties are added, in alphabetical order; and paragraph (d) is revised to read as set forth below:

**§ 301.50-3 Quarantined areas.**

\* \* \* \* \*

(c) \* \* \*

**Indiana**

*Adams County.* The entire county.

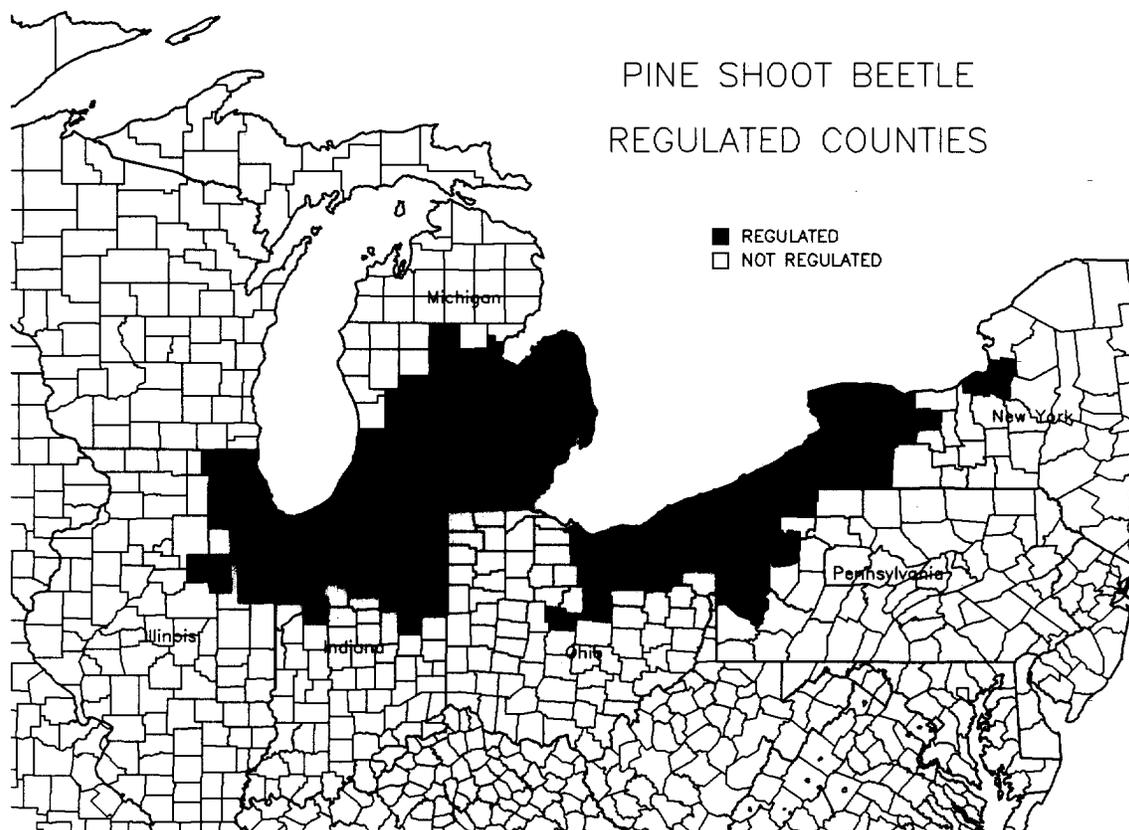
\* \* \* \* \*

*Jay County.* The entire county.

\* \* \* \* \*

(d) A map of the quarantined areas follows:

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Done in Washington, DC, this 29th day of December 1994.

**Terry L. Medley,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 95-424 Filed 1-6-95; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 94-NM-247-AD; Amendment 39-9117; AD 95-01-06]

#### **Airworthiness Directives; Boeing Model 737-200 and -300 Series Airplanes Equipped With Cargo Doors Installed in Accordance With Supplemental Type Certificate (STC) SA2969SO**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737-200 and -300 series airplanes. This action requires inspections to detect cracking in the radii on the support

angles on the lower jamb (latch lug fittings) of the main deck cargo door, and replacement of cracked parts. This amendment is prompted by reports of premature fatigue cracking on the support angles on the lower jamb of the main deck cargo door. The actions specified in this AD are intended to prevent in-flight separation of the main deck cargo door from the airplane due to fatigue cracking on the support angles on the lower door jamb.

**DATES:** Effective January 24, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of January 24, 1995.

Comments for inclusion in the Rules Docket must be received on or before March 10, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-247-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Pemco Aeroplex, Inc., P.O. Box 2287, Birmingham, Alabama 35201-2287. This information may be examined at the FAA, Transport Airplane

Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Curtis Jackson, Aerospace Engineer, Airframe Branch, ACE-120A; FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7358; fax (404) 305-7348; or Della Swartz, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2785; fax (206) 227-1181.

**SUPPLEMENTARY INFORMATION:** Recently, an operator reported that it experienced difficulty in pressurizing a Boeing Model 737-300 series airplane. Investigation revealed that the airplane could not be pressurized because the main deck cargo door would not seal properly. Further investigation revealed that 13 of the 16 support angles on the lower jamb of the main deck cargo door